



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OW-2012-0803; FRL-9920-21-OW]**

**Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Industrial Activities**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final permit issuance.

**SUMMARY:** The EPA's Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 are issuing their final 2015 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from industrial activity, also referred to as the Multi-Sector General Permit (MSGP).

This permit replaces the existing permit covering stormwater discharges from industrial facilities in the EPA's Regions 1, 2, 3, 5, 6, 9, and 10 that expired September 29, 2013, and provides coverage for industrial facilities in areas where the EPA is the NPDES permitting authority in the EPA's Regions 7 and 8. The MSGP consists of 44 separate regional EPA general permits that may vary from each other based on state or tribal certifications and water quality-based requirements. As with earlier permits, this permit authorizes the discharge of stormwater associated with industrial activities in accordance with the terms and conditions described therein. Industrial dischargers have the option to instead seek coverage under an individual permit. An individual permit may be necessary if the discharger cannot meet the terms and conditions or eligibility requirements in this permit. The EPA is issuing this permit for five

years.

**DATES:** The permit became effective on June 4, 2015. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act requirements in light of the expiration of the 2008 MSGP on September 29, 2013. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review on June 22, 2015. Under section 509(b) of the Clean Water Act, judicial review of this general permit can be requested by filing a petition for review in the United States Court of Appeals within 120 days after the permit is considered issued. Under section 509(b)(2) of the Clean Water Act, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings. Deadlines for submittal of notices of intent are provided in Part 1.2 of the 2015 MSGP. The 2015 MSGP also provides additional dates for compliance with the terms of these permits.

**FOR FURTHER INFORMATION CONTACT:** For further information on the final NPDES MSGP, contact the appropriate EPA Regional Office listed in Section I.C., or Bryan Rittenhouse, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202-564-0577 or email: *rittenhouse.bryan@epa.gov*.

**SUPPLEMENTARY INFORMATION:** This supplementary information is organized as follows:

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## **I. General Information**

### *A. Does this action apply to me?*

This MSGP regulates stormwater discharges from industrial facilities in the 30 sectors shown below:

Sector A—Timber Products.

Sector B—Paper and Allied Products Manufacturing.

Sector C—Chemical and Allied Products Manufacturing.

Sector D—Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers.

Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing.

Sector F—Primary Metals.

Sector G—Metal Mining (Ore Mining and Dressing).

Sector H—Coal Mines and Coal Mining-Related Facilities.

Sector I—Oil and Gas Extraction.

Sector J—Mineral Mining and Dressing.

Sector K—Hazardous Waste Treatment Storage or Disposal.

Sector L—Landfills and Land Application Sites.

Sector M—Automobile Salvage Yards.

Sector N—Scrap Recycling Facilities.

Sector O—Steam Electric Generating Facilities.

Sector P—Land Transportation.

Sector Q—Water Transportation.

Sector R—Ship and Boat Building or Repairing Yards.

Sector S—Air Transportation Facilities.

Sector T—Treatment Works.

Sector U—Food and Kindred Products.

Sector V—Textile Mills, Apparel, and other Fabric Products Manufacturing.

Sector W—Furniture and Fixtures.

Sector X—Printing and Publishing.

Sector Y—Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries.

Sector Z—Leather Tanning and Finishing.

Sector AA—Fabricated Metal Products.

Sector AB—Transportation Equipment, Industrial or Commercial Machinery.

Sector AC—Electronic, Electrical, Photographic and Optical Goods.

Sector AD—Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director.

Coverage under the 2015 MSGP is available to operators of eligible facilities located in areas where the EPA is the permitting authority and has made this general permit available for

use. A list of eligible areas is included in Appendix C of the 2015 MSGP.

*B. How can I get copies of these documents and other related information?*

1. *Docket.* The EPA has established an official public docket for this action under Docket ID Number EPA-HQ-OW-2012-0803. The official public docket is the collection of materials that are available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20460. Although all documents in the docket are listed in an index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the United States government on-line source for federal regulations at <http://www.regulations.gov>.

Electronic versions of the final permit and fact sheet are available on the EPA's NPDES website at <http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm>.

An electronic version of the public docket is available through the EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.regulations.gov> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available

electronically. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/dockets>. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials at the EPA Docket Center.

*C. Who are the EPA regional contacts for this final permit?*

For EPA Region 1, contact David Gray at tel.: (617) 918-1577 or e-mail at [gray.davidj@epa.gov](mailto:gray.davidj@epa.gov).

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## **II. Background of Permit**

Section 405 of the Water Quality Act of 1987 added section 402(p) of the Clean Water Act (CWA), which directed the Environmental Protection Agency (EPA) to develop a phased approach to regulate stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) program. The EPA published a final regulation on the first phase on this program on November 16, 1990, establishing permit application requirements for “stormwater discharges associated with industrial activity.” See 55 FR 48063. The EPA defined the term “stormwater discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of facilities. See 40 CFR 122.26(b)(14). The EPA is issuing the MSGP under this statutory and regulatory authority. The 2015 MSGP replaces the 2008 MSGP covering stormwater discharges from industrial facilities in the EPA’s Regions 1, 2, 3, 5, 6, 9 and 10 that expired September 29, 2013, and provides coverage for industrial facilities in areas where the EPA is the NPDES permitting authority in the EPA’s Regions 7 and 8.

Dischargers choosing to be covered by the MSGP must certify in their Notice of Intent (NOI) that they meet the requisite eligibility requirements described in Part 1 of the permit. In addition, dischargers must install and implement control measures to meet the effluent limits required in Part 2 and any sector-specific effluent limits in Part 8, and develop a stormwater pollution prevention plan (SWPPP) consistent with Part 5 describing their control measures used to achieve the effluent limits. The MSGP requires dischargers to conduct routine facility inspections (Part 3.1) and quarterly visual assessments of stormwater discharges (Part 3.2). Dischargers are also required to review and revise, as necessary, their SWPPP in order to meet the permit’s effluent limits when certain triggering conditions occur (Part 4). Dischargers subject to benchmark monitoring are required to submit to the EPA quarterly benchmark monitoring

results (Part 6.2.1). The EPA notes that Part 6.2.1 emphasizes that the benchmark thresholds used for monitoring are not effluent limits themselves, but rather information that is primarily for the use of the industrial facility to determine the overall effectiveness of its control measures and to assist in understanding when corrective action(s) may be necessary. Where applicable, dischargers must also submit to the EPA stormwater effluent data relating to impaired waters (Part 6.2.4) and compliance with numeric effluent limitations guidelines (Part 6.2.2). In addition, dischargers are required to submit an annual report containing permit compliance information generated from the past calendar year (Part 7.5).

### **III. Scope and Applicability of the Multi-Sector General Permit**

#### *A. Geographic Coverage*

The 2015 MSGP provides coverage for sectors of industrial point source discharges that occur in areas not covered by an approved state or tribal NPDES program. The geographic coverage of the 2015 MSGP is listed in Appendix C of the permit, and includes the states of Idaho, Massachusetts, New Hampshire, and New Mexico as well as all Indian Country lands (except in Region 4), and facilities operated by a federal operator in selected states. Permit coverage is also provided in Puerto Rico, the District of Columbia, and the Pacific Island territories. The EPA notes that, unlike the 2008 MSGP, facilities located in certain areas in the EPA's Regions 7 and 8 may be covered by this permit.

Because certifications required by Section 401 of the Clean Water Act were not received in time, operators of industrial facilities in the following areas are not yet eligible for coverage under the 2015 MSGP:

- The State of Idaho (except Indian country);



- The State of Washington (except Indian country) if operated by a federal operator; and
- Spokane Tribe of Indians lands.

The EPA will announce the availability of coverage under the 2015 MSGP for these areas in separate **Federal Register** notice(s) as soon as possible after the certifications are completed. In the meantime, existing dischargers in these areas that were authorized for coverage under the 2008 MSGP will remain covered under the 2008 MSGP until the 2015 MSGP has been issued. Once the permit is available, existing dischargers will be given 90 days to file an NOI for coverage under the 2015 MSGP.

#### *B. Categories of Facilities Covered*

This permit regulates stormwater discharges from industrial facilities in 30 sectors, as shown above in section I.A.

#### *C. Summary of Significant Changes from the 2008 Multi-Sector General Permit*

The 2015 MSGP replaces the 2008 MSGP, which was issued for a five-year term on September 29, 2008 (see 73 FR 56572) and expired September 29, 2013. The 2015 MSGP is similar to the 2008 MSGP, and is structured in nine parts: general requirements that apply to all facilities (e.g., eligibility of discharges, effluent limitations, stormwater pollution prevention plan (SWPPP) requirements, monitoring and reporting requirements) (Parts 1–7), industrial sector-specific conditions (Part 8), and specific requirements applicable to facilities within individual states or Indian country (Part 9). Additionally, the appendices provide forms for the submittal of a paper Notice of Intent, Notice of Termination, Conditional No Exposure Exclusion, Discharge Monitoring Report, and annual report, as well as step-by-step procedures for determining

eligibility with respect to protecting historic properties and threatened and endangered species, and for calculating site-specific, hardness-dependent benchmarks.

This 2015 MSGP includes several new or modified requirements from the 2008 MSGP.

These changes are summarized below and are discussed in more detail in the 2015 MSGP fact sheet.

*1. NEPA Review for Dischargers Subject to any New Source Performance Standards (NSPS).*

For the issuance of the 2015 MSGP, the EPA prepared an Environmental Assessment (EA)/finding of no significant impact (FONSI) that analyzed the potential environmental impacts of the permit. The EA considered the potential environmental impacts from the discharge of new source pollutants in stormwater discharges associated with industrial facilities where the EPA is the permitting authority (see the permit's docket for a copy of the EPA's EA and FONSI).

*2. Information Required for Notices of Intent.* The 2015 MSGP revises the information required in NOIs to provide the EPA with more complete information to determine eligibility and to enable the EPA to inform the operator of its specific monitoring requirements. Operators now need to include in their NOI location information for each stormwater outfall they discharge from, whether the facility discharges to saltwater, the hardness of the receiving water (if subject to benchmark monitoring for metals), whether the facility discharges to a federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site identified in Appendix P, as well as general information from their SWPPP if the SWPPP is not posted online. The EPA NPDES electronic Reporting Tool (NeT) will use latitude and longitude information for each outfall to automatically determine the receiving waters the facility discharges to and the receiving water's or waters' impairment status.

*3. Electronic Reporting Requirements.* Electronic reporting is required in the 2015 MSGP. Electronic reporting will create efficiencies and burden reduction regarding information submittal to the Agency. Recognizing there may be cases that make electronic submittals of information not possible, the EPA has included a waiver that an operator can receive from their EPA Regional Office. Waivers must be approved by the EPA Regional Office on a case-by-case basis and are not intended to cover information submittals for the entire permit term.

*4. Threatened and Endangered Species Requirements.* The EPA has finalized changes to the procedures operators must follow to establish their eligibility with regard to protection of threatened and endangered species and critical habitat (Appendix E) as a result of the EPA's consultation under Section 7 of the Endangered Species Act (ESA). These changes are necessary to ensure that the endangered and threatened species eligibility criteria in Part 1.1.4.5 are adequately protective of such species, and to ensure that operators are making accurate determinations of which eligibility criterion they qualify under.

*5. Effluent Limit Clarifications.* Several of the effluent limits in Part 2 of the 2015 MSGP include a greater level of specificity in order to make the requirements more clear and transparent. These clarifications will help permittees better understand how to comply with the effluent limits. The effluent limits in Part 2 for which the EPA has made clarifications include requirements for minimizing exposure, good housekeeping, maintenance, spill prevention and response procedures, and employee training.

*6. Inspections.* The EPA has consolidated the comprehensive site inspection and routine facility inspection procedures into one set of procedures to eliminate redundancies.

*7. Corrective Actions.* Although the 2008 MSGP required corrective actions, the EPA has

provided greater detail about how these actions are to be handled. In the 2015 MSGP, the EPA clarified which conditions require a SWPPP review, modified the deadlines to further specify the EPA's expectations for what actions must be taken by the deadlines, and rewrote and clarified the reporting requirements following corrective actions.

8. *SWPPP Documentation.* To reduce permittee burden, the EPA identified the effluent limit requirements in Part 2.1.2 that are the most straightforward, i.e., the ones that do not involve the site-specific selection of a control measure or are specific activity requirements (e.g., “Plainly label containers... that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur”). Permittees can comply with the documentation requirements regarding these particular effluent limits by including the effluent limits verbatim in their SWPPP without providing additional information, thereby reducing the burden associated with SWPPP development (see Part 5.2.4). Requirements that involve activities that are done infrequently or are direct and simple may be identified in the SWPPP as written in the permit to be executed effectively.

9. *SWPPP Availability.* To provide greater access to the SWPPP for the public, the EPA, and the Fish and Wildlife Service and National Marine Fisheries Services (the Services), the 2015 MSGP requires that permittees either provide a URL for their SWPPP on the NOI form, or provide selected information from the SWPPP on the NOI form. The selected information from the SWPPP that would have to be included in the NOI form includes: onsite industrial activities exposed to stormwater, including potential spill and leak areas (see Parts 5.2.3.1, 5.2.3.3 and 5.2.3.5); pollutants or pollutant constituents associated with each industrial activity exposed to stormwater that could be discharged in stormwater and any authorized non-stormwater

discharges listed in Part 1.1.3 (see Part 5.2.3.2); control measures employed to comply with the non-numeric technology-based effluent limits required in Part 2.1.2 and Part 8, and any other measures taken to comply with the requirements in Part 2.2 Water Quality-Based Effluent Limitations (see Part 5.2.4); a schedule for good housekeeping and maintenance (see Part 5.2.5.1); and a schedule for all inspections required in Part 3 (see Part 5.2.5.2).

*10. Benchmark Monitoring.* For the 2015 MSGP, the EPA has included additional non-hardness dependent metals benchmarks for facilities that discharge into saline waters. The addition of these benchmarks provide an appropriate indicator of the performance of the measures taken to meet the effluent limitations contained in the permit where stormwater is discharged into saline waters. Benchmark values in the 2008 MSGP for these metals were based on acute or chronic aquatic life freshwater criteria. These additional saline benchmark values are based on available acute ambient water quality criteria for arsenic, cadmium, copper, cyanide, lead, mercury, nickel, selenium, silver and zinc.

*11. Industry Sector-specific Requirements.* The following changes were made to Part 8 of the MSGP, which describes requirements specific to particular industry sectors:

Sector A, Timber Products – Discharges resulting from uncontaminated spray down or intentional wetting of logs at wet deck storage areas is an allowed non-stormwater discharge provided the effluent limitation in Part 8.A.7 is met. To accommodate situations where facilities use water from a waterbody that they intend to return to the waterbody following spraying/wetting, the permit contains an allowance or credit for pollutants originally in the waterbody prior to use and discharge.

Sector G, Metal Mining – As with the 2008 MSGP, this permit provides coverage to

operators for earth-disturbing activities conducted prior to active mining activities. Before 2008 those activities were required to be covered separately under the Construction General Permit (CGP) or an individual construction stormwater permit. To facilitate such coverage, additional requirements have been added that are consistent with limits from the Construction & Development (C&D) Effluent Limitation Guideline (ELG) (for earth-disturbing activities associated with the construction of staging roads and the construction of access roads conducted prior to active mining), and for mine site preparation earth disturbances, revised limits based on EPA's best professional judgement (BPJ)).

Sector H, Coal Mining –Additional requirements have been added that are consistent with changes made to Sector G.

Sector J, Mineral Mining and Dressing – Additional requirements have been added that are consistent with changes made to Sector G.

Sector S, Air Transportation – The EPA has added requirements based on the final effluent limitation guidelines for airplane and airport deicing operations. Also, the EPA has included clarifications regarding airport operators' responsibilities and the permit requirements that airport authorities may conduct on behalf of airport tenants.

#### **IV. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review**

Under Executive Order (EO) 12866 (58 FR 51735 (October 4, 1993)) this action is a “significant regulatory action.” Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 and any changes made in response to OMB recommendations have been documented in the docket for

this action.

## **V. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments**

In compliance with Executive Order 13175, the EPA has consulted with tribal officials to gain an understanding of and, where necessary, to address tribal implications of the MSGP. In the course of this consultation, the EPA undertook the following activities:

- *December 11, 2012* – EPA presented an overview of the 2008 MSGP and potential changes for the renewal of the MSGP to the National Tribal Caucus.
- *December 12, 2012* – EPA presented an overview of the current MSGP and potential changes for the renewal of the MSGP to the National Tribal Water Council.
- *December 12, 2012* – EPA mailed notification letters to tribal leaders initiating consultation and coordination on the renewal of the MSGP. The initiation letter was posted on the tribal portal website at <http://www.epa.gov/tribal/consultation>.
- *January 15, 2013* – EPA held an informational teleconference open to all tribal representatives, and reserved the last part of the teleconference for official consultation comments. EPA also invited tribes to submit written comments on the permit renewal. The presentation was posted on the tribal portal website at <http://www.epa.gov/tribal/consultation>.

## **VI. Analysis of Economic Impacts**

The EPA expects the economic impact on entities covered under this permit, including small businesses, to be minimal. A copy of the EPA's economic analysis, titled, "Cost Impact

Analysis for the Multi-Sector General Permit (MSGP)'' is available in the docket for this permit. The economic impact analysis indicates that while there will be some incremental increase in the costs of complying with the new permit, these costs will not have a significant economic impact on a substantial number of small entities.

**Authority:** Clean Water Act, 33 U.S.C. 1251 et seq.



Dated: June 4, 2015.

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Dated: June 4, 2015.

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